

Days 1-25

App F IX-1

*Precious References*

ml 26-35-176, 17, 8, 9, 15716 <sup>1935</sup> (ml)

File No 26-35

Serial Nos 11, 12  
20, 22, 24

*Letter References*

ml 26-35 (29-71)  
ml 26-35-17, 28, 33, 38, 39, 40 & 41  
ml 31-36 85, 10 & 14

## GENERAL AND REVENUE SECRETARIAT.

Serial Nos Five

Part B for Nov 1935

### SUBJECT

Disabling of Mr. M. K. Krishnamoorthy, M.B. Nagar  
C.B., from continuing as a Councillor, under Sec 12(f)  
(c) of the Mysore District Municipalities Act 1933, on  
account of non-payment of taxes, alleged to be due by him  
in accordance with a special notice served to him on  
his behalf.

- 22) Go no L 3443 of 12-14-35. Document of Mr. M. K. Krishnamoorthy cannot be kept  
Direct that Mr. M. K. Krishnamoorthy cannot be kept  
as having incurred the 'disabling' mentioned in Sec  
12(f)(c) of the C. M. Act and accordingly set aside  
the order of the District Officer - in the matter
- 24) with 2532 of 13-11-35. Do Mr. M. K. Krishnamoorthy  
State that he has been in the service of the Government  
1614

# Municipal Councillors - Mysore City Municipality

General and Revenue  
Secretariat

File No

L 1205-1259  
26 of 1935

[App F III-2]

P. u. D. I

11

Letter - no G. J. 312 dated 12<sup>th</sup> Sep 1935, from the President City Mndl Mysore, forwarding for the information of Govt, that two municipal councillors Messrs M. K. Krishnarao and B. L. Haridandappa have failed to pay in full the arrears of taxes due by them within the time specified in the special notice and incurred disability under Sec 12(2)(e) of the Mysore Mndl Act from continuing as councillors and stating that action to fill up the vacancy is being taken.

P. u. D. I

Pt. M. dated 14/9/35 from Mr M. K. Krishnarao Varadilasa Rao Mysore, appealing against the order of the President City Mndl Mysore, regarding his disability from continuing to be a mnd councillor.

The mnd councillor contends that the notice served on him was not legal, and prays that the connected records may be called for and the order of the President set aside and pending disposal of the Petn by Govt the President may be directed to stay the further proceedings in the case.

Submitted for o. d. 11/9/35

It is stated in

the

# Municipal Council - Mysore

File No

21257 1259  
26 of 1935

General and Revenue  
Secretariat

Memo of the President declaring the appellant's seat vacant, - It is stated that the connected papers including the several letters of the appellant in the matter have been examined by the Municipal Advocate. The opinion given by the latter is not among the papers sent by the President to the appellant.

RECEIVED  
16 SEP 1935  
No 925

The points arising in the case for consideration are -

- (i) Whether the Special Notice sent to the appellant was in order & whether it was duly served; &
- (ii) Whether time for the calculation of 3 months allowed for payment commenced from the date of the original notice or from the date on which a correct account of the dues was furnished by the President to the appellant.

It is further requested that a report on the points raised by the appellant may be called for from the President with the connected records.

The appellant prays for a stay order pending orders of the court on the appeal. This is also for orders.

(Chetty) 16/9  
A report will be sent by the  
Council for. Perhaps the President may  
be asked to go on with  
the accounts relating to the election -  
pending disposal of the

Done

8-10-35  
16-9-35  
16/9  
(1) 9/10/35  
17/10/35

Municipal Councils - Mysore ag-  
 L 1259 V 1530

General and Revenue  
 Secretariat

File No

26 of 193 5

[App F III 2

- 8
- 10) Submitted with a draft for approval  
 82  
 17/9 M/M - of issue today  
 11) M/M 17/9
- 12) Ind. no. 2110 of 17.9.35 - no present ag-  
 nel memo. Forwarding for having  
 submitting a report with records

Letter - no. 47.786 dated 1.10.35 -  
 from the President city and Mysore  
 forwarding the report with the  
 connected records.

12) The President <sup>states</sup> that action  
 to fill up the vacancy has been  
 stayed pending orders of Govt. on  
 the question.

13) Submitted for orders. Reference

88 The Law Section was if abt  
 4.10.35 he consulted. Mfile 26-35/718.9

15.11.35 relating to the case of Mr. Mohamed  
 Sait is also put up for kind reference

14) Mr. Jay will place  
 note on the grounds of  
 appeal & indicate the points,  
 if any, on which legal opinion  
 is required

Wgent

8/10

File No

of 193

General and Revenue  
Secretariat

Serial  
No

15

R

The Municipal President has in his Memo dated 12.9.1935, stated that a special notice having been served on Mr. M.K. Krishna Rao on 31.5.1935 for payment of arrears due by him amounting to Rs. 66-2-9, he paid only a sum of Rs. 35-10-9 within the period of 3 months allowed and failed to pay the balance, and <sup>he became</sup> disabled from continuing to be a Municipal Councilor.

PART I

16 The grounds on which Mr. Krishna Rao has appealed against the President's decision are :-

A

(1) that the special notice left in his house on 31.5.35 was not a legal notice, because,—

- (a) it did not give details for the sum of Rs. 64-4-0 said to be the current and arrear Municipal taxes due from him,
- (b) it included sewage farm dues which had been fully discharged in February 1935, and also current demand which is not an arrear under Sec. 12 (2) (e) of the City Municipalities Regulation, and
- (c) it was not reconcilable with <sup>the</sup> previous notice of demand sent to him

4.

I Whether the special notice issued to the petitioner was in order:-

~~20~~ There is no form prescribed for this notice; Sec.12 (2) (e) of the Regulation refers to "failure to pay any arrears of any kind due by a Councillor to the Municipal Council within three months after a special notice in this behalf ~~has~~ has been served upon him."

~~21~~ The petitioner says that because the details of the dues were not given and the sewage farm dues were included in the notice, the latter was not legal. He also says that the amount mentioned in the notice included current dues which are not covered by the said provision.

~~22~~ The Municipal Advocate has stated that Sec. 12 (2) (e) covers arrears of any kind due to the Municipal Council and ~~does~~ not exclude sewage farm dues. It seems

doubtful if this interpretation is correct, as the ~~areas~~ referred to in the Section seem to be those recoverable under Chapter VIII of the Regulation and ~~it is~~ ~~does to the Municipal Council are those due to it~~ ~~not stated anywhere whether the sewage farm dues are recoverable under the Regulation~~ ~~and should not perhaps have been included in the Special notice.~~ It is not, however, clear whether the inclusion of this item rendered the notice itself illegal. If it did not, neither want of details for the amount ~~claimed~~ claimed nor the inclusion of the dues for the 'current' year can be said to have affected the legality of the notice. The inclusion

H. B.

A

5.

Serial  
No

-13- inclusion of the current dues seems to ~~be~~ have been in order as nonpayment of the same in time makes it an arrear. The slight discrepancies between the Special notice and the demand notices issued previously during the year do not also appear to affect the question. In this view, it appears that the special notice can be regarded as having been in order, especially as the amount of municipal taxes due mentioned on it was practically correct according to the details furnished by the President on 17.8.35 except for a small difference of 0-4-0.

II. Whether the notice was duly served upon the petitioner,

The petitioner's contention is that it was left in his house in his absence on the evening of 31.5.1935 and that it was not served on him personally or by tendering it to an adult male member or servant of the family as required by Sec.185 (b) of the Regulation.

The delivery book shows that the notice was given to and acknowledged by M.V. Subba Rao, who is stated to be an adult <sup>(aged 20 years) and the third son</sup> ~~and nephew~~ of Mr. Krishna Rao

The service of the notice other than on the person addressed is permissible only if he is not found, to enable service being effected in person, and

6.

and before one can be said to be not found, all reasonable and due diligence to find him has to be <sup>expressed</sup> made, please see ~~the notice~~ <sup>33</sup> paras of the notes in the file relating to Mr. Mahomed Sait's case put up. - According to Mr. Krishna Rao, he was not <sup>in the Station</sup> at home on the evening of the 31st May-1935 <sup>when</sup> and the notice was delivered to Mr. M.K. Subba Rao. - There is nothing to show whether the process server enquired where Mr. Krishna Rao was, when he would be coming, etc., Such enquiry should have been made, and the server should have gone to <sup>Mr Krishna Rao's</sup> the house again the <sup>following</sup> day or ~~the next day~~ with a view to find Mr Krishna Rao and serve the notice on him personally. Evidently no attempt was made in the latter direction and the circumstances do not show that it was impracticable to find him. It seems therefore that the notice cannot strictly be held to have been properly served. -

~~It~~ It is, however, seen that in spite of the defective service of the notice, Mr. Krishna Rao took action in respect of it. The very next day <sup>after service,</sup> viz., on the 1st June 1935, he wrote to the Revenue Officer with <sup>reference</sup> ~~regard~~ to the notice, asking for the details of the arrears mentioned in it. He pursued the enquiry till he got full details required by him and also made payments of the dues, though under protest. It is therefore for consideration whether <sup>the</sup> a notice cannot be treated as having been

Decided by  
Pres. 1935 (G.O. 5755)  
The President (G.O.P)

Serial  
No

7.

been effectively served in the case, so as to hold Mr. Krishna Rao liable for the consequences of non-payment of the arrears <sup>in full</sup> within the time allowed.

~~26~~ III. Whether the period of three months allowed in Section 12 (2) (a) should be reckoned from 31st May 1935, the date of the service of the notice, or from the 17th August 1935, the date on which full particulars of the arrears were furnished to ~~the~~ the petitioner by the President.

~~30~~ The special notice mentioned two items of arrears viz., (1) Rs. 64-4-0 towards "municipal taxes and (2) Rs. 2-2-9 towards sewage farm dues. The latter had already been paid as admitted by the Municipality, and as regards the former the amount was, as pointed out above, practically correct, except for the small excess of 4 annas. The subsequent correspondence carried on by the petitioner was only to find out the details for the said sum, as according to the receipts given to him previously by the Municipality the two payments of Rs. 10/- each made by him on the 3rd May 1934 and 2th June 1934 were taken towards the dues for

8.

for 1933-34, while as a matter of fact <sup>As 107- out g</sup> these amounts <sup>were</sup> ~~had been~~ adjusted towards his arrears for 1932-33. It was explained by the President in his letter of 17th August 1935 that the mention of 1933-34 in the receipts given <sup>to</sup> ~~by~~ the petitioner was due to a mistake on the part of the <sup>Mutsafer</sup> ~~Collector~~.

According to Section 12 (2) (e), the period has to be reckoned from the date of the service of the special notice viz., 31st May-1935. Because the latter did not give details and correspondence had to be carried on by the petitioner to elicit the same, it does not seem that he can get a fresh starting point for the purpose of the calculation of the period. After all, the correspondence has not shown any marked difference between the amount mentioned in the notice and that shown as per details ~~furnished~~ furnished later. It seems therefore difficult to accept the contention of the petitioner that he had time for making payment till three months from 17th August 1935 and that the payments made by him on the 3rd September 1935 were in time.

2) One other point which ~~has to be~~ considered in this connection, though <sup>it</sup> not raised by the petitioner, is whether the President had authority to issue the special notice

\* The point has been raised in the appeal of Mr. Handaiah which has been referred to the Hon'ble Mr. J. J. S. J.

1257/1530  
2 7Serial  
No

if it was not done in accordance with a resolution of the Municipal Council in this behalf the President has, in reply to an enquiry made in the matter, stated that the special notices in this and other cases were issued in accordance with an assurance made to the Council by the previous President in reply to interpellations, that there was no resolution of the Council in this behalf and that the notices were issued under the power vested in him under Sections 22 and 24 of the Regulation. Action is perhaps taken under clause (8) of Sec 24 though there seems to <sup>have been</sup> no delegation of the power under Section 38, or a rule issued under Sec 49 (b) (1) in this matter, the President has perhaps, in the absence of a direction to the contrary by the M.C., to be regarded as ~~being~~ <sup>being</sup> having authority to perform the executive function of issuing the special notice, (See comments on pages 97 and 126 of Cummings Municipal Manual

22) Legal opinion may be obtained  
A/ on all the above points before orders are passed in the case

Chetty

Am  
17/10

A-3

Yes. early

A-13, 20

Under Sec  
P.W.P.Am  
14/10

Re

W This is an appeal by Mr. H.K. Krishna Rao, Councillor of the Mysore City Municipality, against the order of the President to the effect that he has vacated his seat under section 12 (2) (e) for non-payment of arrears due to the municipality

✓ The relevant provisions of the City Municipalities Regulation are these

" 12 (2) (e).- If any Councillor during the time for which he has been elected or appointed fails to pay any arrears of any kind due by him to the Municipal Council within three months after a special notice in this behalf has been served upon him, he shall be disabled from continuing to be a Councillor and his office shall become vacant

12 (3).- If any question or dispute arises whether a vacancy has occurred under this section, the orders of the Government shall be final for the purpose of deciding such question or dispute. "

W A special notice, as required under section 12(2)(e), dated 21st May 1935, was served on Mr. Krishna Rao, demanding municipal taxes of Rs. 64-4-0 and sewage farm dues of Rs. 2-2-9. This was delivered in Mr. Krishna Rao's house on 31-5-35 to one H.K. Subba Rao who has signed in the delivery book. Before the end of 31-8-35, i.e., three months from 31st May, Mr. Krishna Rao paid Rs. 33-8-0. The Municipal President has decided that Mr. Krishna Rao's seat has become vacant as the full amount of arrears was not paid by him before 31st August.

Flag A

The technical point which has been raised in

Serial  
No

in the notes above may be first considered. It is <sup>rather</sup> ~~for~~ the President <sup>whether he</sup> has authority, to issue the special notice under section 12(2) (e) or ~~it~~ <sup>he</sup> has to be authorised by a resolution of the Municipal Council in this behalf. Under section 22(2), the executive power for the purpose of carrying out the provisions of the Regulation vests in the Municipal Commissioner. ( The President of the Mysore City Municipality has the powers of the Commissioner also ). Under section 24 (1) (d), it is the duty of the President to perform such other executive functions as may be performed by the Municipal Council subject to the provision of section 38 and of the rules for the time being in force. The power of issuing a special notice has not been delegated by the Municipal Council to anybody else and they have not reserved the power to themselves by any rules, and as such the President has the power to exercise his functions under these sections. In this connection, the interpretation of a similar section ~~10~~ under the Bombay Burroughs Act will be of interest. In the Administration Report, the Government of Bombay have observed as follows.

" 2. There is no special provision in the Act prescribing the authority by whom a special notice must be given. In the absence of special provision the Chief Officer and the President have power to issue such a notice. The executive power for the purpose of carrying out

out the provisions of the Act vests in the Chief Officer under s.30 (2) of the Act, and it is only when it is in the Act expressly so directed, that his actions are subject to the approval or sanction of the municipality. There are in fact no other restrictions, limitations, conditions or rules applying to his service of these special notices. The President is to watch over the executive administration of the Municipality and to exercise supervision and control over the acts and proceedings of all officers and servants of the Municipality in matters of executive administration under s-31 (b) and (c) of the Act. The notices issued in this case under the signatures of the Chief Officer and the President are legal and proper."

Though the issue of a special notice by the President is not irregular, it is irregular if the revenue officer issues it. It is found from the records that the notice has been issued under the signature of Mr. T.S. Siddappa who is the Revenue Officer. He has signed for the President. The records do not even disclose that the President has ordered the issue of this notice. Strictly such notices have to issue under the President's signature since the power has not been delegated by the Municipal Council to the Revenue Officer, and the President himself cannot delegate such power to the Revenue Officer except under section 250 with the sanction of the Municipal Council. No such sanction of the Municipal Council has been taken and the issue of the notice under the signature of the Revenue Officer is therefore irregular.

The amount of taxes due from Mr. M. Krishna Rao for 1933-34 and 34-35 was Rs.46/- for each year, or Rs.92/- in all. The amounts that have been paid by Mr. Krishna Rao and the dates of payment relevant for the purpose of this case are as follows.-

A separate circular prescribing that the Municipal President must himself sign such notices with, if approved, be issued separately.

2/11/35

Action taken  
repeatedly  
Rm  
18/11

Rs.

|    |    |    |    |    |    |   |
|----|----|----|----|----|----|---|
| 3  | 5  | 34 | .. | 10 | 0  | 0 |
| 8  | 6  | 34 | .. | 10 | 0  | 0 |
| 3  | 11 | 34 | .. | 6  | 0  | 0 |
| 5  | 1  | 35 | .. | 6  | 0  | 0 |
| 8  | 3  | 35 | .. | 6  | 0  | 0 |
| 1  | 6  | 35 | .. | 8  | 8  | 0 |
| 31 | 8  | 35 | .. | 25 | 0  | 0 |
| 3  | 9  | 35 | .. | 19 | 4  | 0 |
| 3  | 9  | 35 | .. | 10 | 12 | 0 |

The last two items were paid under protest. regarding the first item of Rs.10/- paid on 3-5-34 there is dispute. Mr. Krishna Rao says that he paid it towards the arrears of 33-34, and he is supported by the receipt granted by the Municipality. And the Municipality now contend that it is appropriated towards the arrears of 32-33 and that the entry of the year in the receipt was a mistake and Mr. Krishna Rao's contention is that he had paid ~~it~~ up everything due for 32-33. Even excluding this item of Rs.10/-, Mr. Krishna Rao will have paid up the full amount of the taxes for the years 33-34 and 34-35 when the sums aggregating Rs.30/- paid on 3-9-35 could be taken into account. The contention of the President is that the time of three months allowed under the Regulation from the date of the service of the notice expired on 31-8-35 and as this Rs.30/- was paid subsequently, it cannot be taken into account. The question therefore arises whether the notice was served on 31st May in accordance with the provisions of the Regulation or else, when it should be deemed to have been served. Admittedly it was not served personally on Mr. Krishna Rao, and he was not in town on that date. According to section 185 the service of every notice shall be effected (a) by giving or tendering the

the notice to the person to whom it is addressed or (b) if such person is not found, by leaving the notice at his last named place of abode with, or by giving or tendering the notice to, some adult male member or servant of his family. Thus, the law contemplates that ordinarily service should be made personally on the person concerned whenever practicable and it is only where the person cannot be found that it can be served on another person ~~or~~, or a servant of his family. A person may be said to be not found if after using all reasonable diligence the server does not find him available for being served on personally. Merely **because** the server goes on some occasion to the party concerned and does not find him at home, it cannot be said that he is not found for service. Thus the circumstances of service in this case do not satisfy the conditions under section 185 and the service on 31-5-35 cannot be said to be proper service. Further, when the person is not found, a notice has to be tendered to an adult male member. Mr. Krishna Rao contends that it was not tendered to an adult male member. The register shows the signature of one Mr. M.K. Subba Rao. Mr. Krishna Rao himself has not been questioned by the President about this man's age. But <sup>a</sup> ~~the~~ report is obtained from one of the municipal officials that this man is learnt to be 20 years of age. And this is too much of <sup>a</sup> ~~the~~ hearsay to be treated as evidence.

*The official*  
20 Apart from the above considerations, notice came into the hands of Mr. Krishna Rao only on 1st

6

1st June and he has immediately written a letter to the Revenue Officer asking for details. The notice may therefore be taken to have been served on 1st June. Counting three months allowed by the Regulation from this date, the last date for payment of the arrears will be 1st September. Since the 1st and the 2nd of September were general holidays, section 10 of the General Clauses Act permits of the payments being done on the next day on which the office is open and the payment on 3rd September ~~was~~ therefore to be considered as made in due time. Since the arrears due were paid in due time, Mr. Krishna Rao does not vacate his seat.

31) There are one or two other points for consideration. As observed above, there is dispute in regard to the payment of Rs.10/- made on 3-5-34... The receipt granted by the municipality supports Mr. Krishna Rao to the effect that it was a payment towards the arrears of 33-34. It was only on 16-8-35 he was informed by the municipality that this was an error. Mr. Krishna Rao's point is that he has paid up all the arrears due for 32-33. The correspondence shows that Mr. Krishna Rao was trying to obtain from the municipal authorities particulars of the arrears demanded by them. It does not appear to be a case of wilfully trying to protract the payment.

32) Even now it is not clear if the President has satisfied himself that the appropriation ~~was~~ of the

2086/35 - 1/15/35  
 Municipal Councils Hyderabad  
 26 of 1935

File No

General and Revenue  
 Secretariat

amount paid to the municipality is correct. The order issued by the President on 12-9-35 shows that he relies more upon the Revenue Officer's report and the opinion of the Municipal Advocate rather than upon his own examination of the records of the case. Under section 12(3), in regard to the question whether a vacancy has arisen, the order of the Government shall be final. Considering all the circumstances of the case, it is fit that the Government decide that no vacancy has arisen.

Chief Secretary)

2nd member).

Ce  
 1/11/35

33) - M  
 2/11/35

Ce  
 2/11/35  
 M 2/11

I agree  
 M

M  
 4/11

3/11/35

Please put the  
 draft so

M  
 4/11

A draft of 0 is submitted for consideration

M  
 5/11 - M 5/11

Please get the draft typed as revised  
 M 6/11

P.T.O

CHIEF SECRETARY  
 1 11 1935

SECRETARY  
 SECY D. H. S. OF GOVT  
 2 11 1935  
 NO 3854

Typ. Sec. H. C.  
 M 7/11

7 NOV 1935  
 GENL & REV SECT

Inability of Mr M K Krishna Rao to continue on the Mysore city M.C. Council  
~~Municipal Council, Mysore~~

General and Revenue  
Secretariat

File No

of 193

[App F III-2

Serial  
No

Typed draft submitted for approval

Rmr  
7/11

chief secy)

Aug  
7/11

22nd Nov 11

Mr  
8/11

Mr  
8/11/35

(1) Please issue draft as revised

(2) Issue separate order to the appellants

Mr  
9/11  
Issue draft for  
submit and  
draft end

22

The President, city Municipal Council, Mysore

No 2 3443 dated 12-11-1935

Sets aside the order of the President for reasons given

Draft endorsement to Mr Krishna Rao submitted

Rmr  
12/11

Issue  
12/11

Draft letter to Mr M K Krishna Rao is submitted as directed  
in person

For perusal before issue

Rmr  
12/11

chief secy)

Mr  
12/11

Mr  
12/11

Issue  
12/11

NOTE—Contn Sheet

TYPING SECTION  
13 NOV 1935  
124

Mr Krishna Rao, Mysore

No 2 3532 of 13-11-35

States that the P.C.'s order has been set aside

No 2 3533 of 13-11-35: copy to the P.C., Mysore city

B  
15/11/1935

File No

of 193

General and Revenue  
Secretariat

1205  
2  
12  
M. A. SREENIVASAN Esq BA  
PRESIDENT, CITY MUNICIPAL COUNCIL  
MYSORE

OFFICE OF THE PRESIDENT  
CITY MUNICIPAL COUNCIL MYSORE

Date 12th September 1935.

ml 26-35-11

From

M. A. SREENIVASAN Esq BA  
PRESIDENT, CITY MUNICIPAL COUNCIL  
MYSORE

The Chief Secretary  
to the Government of His Highness  
the Maharaja of Mysore, BANGALORE.

Sir,

1182  
In continuation of this office letter No.G.T.547 dated 3rd September 1935, reporting the disability incurred by two Councillors mentioned therein, under Section 12(2)(e) of the City Municipalities Regulation of 1933, for noncompliance with the Special Notice issued to them, I have the honour to state that two more Councillors, namely, Mr.M.K.Krishna Rao ( an Elected Councillor ) and Mr.B.L.Maridandiah ( a Nominated Councillor ) have failed to pay in full the arrears of taxes due by them within the time specified in the Special Notice and incurred disability under Section 12(2)(e) from continuing as Councillors

A copy of the Memo No.135 dated 12th September 1935 issued in this regard is sent herewith for the information of the Government.

Action to fill<sup>up</sup> the vacancy in the case of the elected Councillor is being taken. With regard to the filling up of the vacancy by nomination a separate reference will be made in due course.

I have the honour to be,

Sir,

Your most obedient servant,

M. A. Sreenivasan  
PRESIDENT

Submitted for information.

53  
14/9/35 M/14/9

MLN.



Office of the President,  
City Municipal Council, Mysore  
Dated 12th September 1935.

Read:-

1. Revenue Officer's Note dated 5th September 1935 stating that Messrs.M.K.Krishna Rao and B.L.Maridandiah, Municipal Councillors, had not paid up in full, in time, the arrears of taxes due from them in spite of Special Notice No.R.T.1070 dated 21/23rd May 1935 and R.T. No.1086 dated 21/23rd May 1935 issued to them respectively ( along with similar notices to other Councillors in arrears ) under Section 12(2) of the Municipalities Regulation of 1933 and duly served on them.

2. Note dated 9th September 1935 of legal opinion of Mr.S.Chinnaswamy Setty, Municipal Advocate, that for reasons stated therein -- Messrs.M.K.Krishna Rao and B.L.Maridandiah have to be taken to have incurred the disability imposed by Section 12 of the Municipalities Regulation of 1933.

Memo. No.135 dated 12-9-1935.

Special Notices under Section 12(2) of the Municipalities Regulation of 1933 were issued to Messrs.M.K.Krishna Rao and B.L.Maridandiah in respect of the arrears of Rs.66-6-9 and Rs.87-13-1 respectively, due from them and were duly served on them on 31st May 1935 and 3rd June 1935 respectively.

From the Revenue Officer's report, it is seen that Mr.M.K. Krishna Rao paid only a sum of Rs.35-10-9 within the period ~~12~~ of three months of the date of service ( 31-5-1935 ) of the Special Notice on him, namely till the end of 31st August 1935 and failed to pay the balance due within the said period, and that Mr.B.L.Maridandiah paid only Rs.51-8-6 within the period of three months of the date of service of the Special Notice, namely, till the end of 3rd September 1935.

The connected papers including Mr.M.K.Krishna Rao's several letters in the matter have been examined by the Municipal Advocate who after considering them has expressed the opinion that both Messrs. M.K.Krishna Rao and B.L.Maridandiah have incurred disability under Section 12(2)(e) of the Municipalities Regulation of 1933 from continuing ~~to~~ as Councillors.

Under Section 12(2)(e) of the Municipalities Regulation of 1933 Messrs.M.K.Krishna Rao & B.L.Maridandiah are accordingly disabled from continuing to be Municipal Councillors and their offices have become vacant.

Sd.M.A.Sreenivasan.  
PRESIDENT.

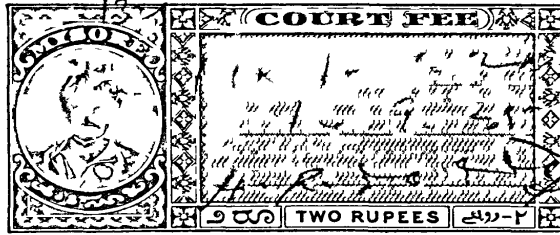
" Copy "

*M.A. Sreenivasan*  
President.

*24*



1254



1254  
2.  
64

Before the Government of His Highness the Maharaja  
of Mysore.

Municipal Appeal No. 1935-36.

Appellant:-

Inamdar M.K. Krishna Rao,  
"Manorama" Vanivilas Road,  
M y s o r e.

VS.

President of  
M. M. K. Rao

Respondent:-

President,  
City Municipal Council,  
M y s o r e.

149

Ant by  
155

XX  
14/9  
14/9

1254  
149

This is an appeal under Section 12 Clause  
(3) (E) of the Mysore City Municipalities Regula-  
tion of 1933, to set aside the Memo No.135 dated  
12-9-35 passed by the President regarding the  
disability incurred by the appellant under Section  
12 (2) (e) of the City Municipalities Regulation  
of 1933 from continuing to be a Municipal Council-  
llor for the following other reasons:-

That both the President respondent and the  
Municipal Advocate have erred in holding that the  
special notice R.T.No.1070 dated 21/23rd May 1935  
for Rs 66-6-0 left in the house of the appellant

on

on 31-5-1935 was a legal notice contemplated under Section 12 (2) (e) when it was not mentioned what kind of Municipal Taxes current and arrears ₹ 64/4/- for what period the arrears were due and other details as required by the Law and included an item (Sewage Farm Dues) which was fully discharged in the month of February 1935 and current demand as if it was also an arrear and contemplated under Section 12 Clause (2) (e) was irreconcilable with previous demand notices sent to the appellant in the month of October 1934 and was not personally served on the appellant or served by tendering the same to some adult male member or servant of the family as required by the Section 185 Clause 'B'. Therefore all proceedings taken under such special notice were illegal and void. (Flag A). *There was no bill or demand notice for Rs 64-4-0 as required by law*

Though that the appellant requested the Revenue Officer for details of the demand for ₹ 64-4-0 and payments made by the appellant for the year 1933-34 on 1-6-1935 by means of a letter to him (flag B) and after several remainders issued

for

for this purpose he sent a statement on 25th June 1935 bearing No.36 R.T.E.1. (Flag B). When it was found that items of payments made by the appellant on 3-5-1934 for ₹ 10/- for the year 1933-34, and on 8-6-1934 for ₹ 10/- for the year 1933-34 were not shown in the statement. (Flag C). He referred the matter to the President on 10-8-1935 enclosing the statement sent by the Revenue Officer and the Original 6 receipts in token of having paid ₹ 46/8/-, requesting to verify the payments and to see if any amount was misappropriated or otherwise disposed off. The President sent a communication in reply on the 17th August 1935 R.T.165 E1 enclosing another new statement of accounts (Flag B) prepared for the three years from 1932-33<sup>7</sup> which was not at all under reference or in question from the time of the issue of the special notice to show that ₹ 20/- were also adjusted to the arrears <sup>for the year 1932 33</sup> explaining that the receipt No.10 was issued by the Mutsaddi by mistake for the year 33-34 instead of for the year 32-33. The amount paid by the appellant on that date was only ₹ 8-4-0 though the receipt was granted for ₹ 10/- The other receipt No.38 dated 8-1-1934 for ₹ 10/-

was

was not accounted for. This kind of appropriation of amounts paid for the years 33-34 as noted in the receipts to the years 1932-33 for which there was no demand in the special notice or in the statement of the Revenue Officer, is illegal, objectionable and irrelevant.

That the Sewage Farm Dues were withdrawn and the balance in the new demand was different from that what was mentioned in the special notice and the enclosure were not returned as stated in the communication of 19th August. As 18th August was Sunday he prayed the president to return the enclosures immediately on 19th August 1935. The statement(C) and the receipts were returned unofficially on 20th and 31st August in two batches without any covering letters. As no reply was sent by the President to the appellant on 19th August, the appellant sent two important illegal demand notices <sup>of 21-3-35 Rs 65/-</sup> sent to him to show the affairs of the account branch was in a mess and chaotic condition. On 31st August 1935 the appellant requested the President that if he was obliged to

pay

pay the arrears as noted in his letter No.165(E1)  
~~and~~ praying further information. Even this did  
not fetch a reply. The appellant made up his mind  
to pay the entire balance as shown by the President's  
communication of 17-8-1935 and in obedience to the  
oral direction sent to the appellant through a clerk  
on the night of 31st August to pay the entire balance  
under protest sent <sup>Rs</sup> 25/- on 1-9-1935 only. As

31 8-35 ?

1st and 2nd September were general holidays on  
3-9-1935 the appellant paid the excess amount ille-  
gally claimed under protest in two instalments one  
in the morning at 9 A.M. for <sup>Rs</sup> 10-12-0 and <sup>Rs</sup> 19-4-0  
at 4 P.M. in the Office explaining the circumstances

under which he was placed. *vide order of appeal deposits 3 2/3 & challenge receipt  
for Rs 19 4.0*

Therefore the three months time allowed by  
the Regulation for payment of arrears and not current  
was to be reckoned from 17-8-1935 but not from the  
date of the illegal special notice viz., 31-5-1935.  
Even before the time of expiry allowed to pay up the  
balance the appellant has paid the entire amount on  
3-9-1935. These matters and other affairs concerned  
with the case have not at all been taken into consi-  
deration by the too learned gentleman who decided the  
case.

Therefore the benign Government may be pleased to call for the entire records and after kind perusal of the same to hear the appellant's representations and then to set aside the order of the President. Further, the appellant humbly prays that the President may be directed to stay the further proceedings in the case till the final decision of the case.

M v s o r e.

*M. K. Krishna Rao*  
*Advocate*

Dated 14th September 1935.

SUBJECT

15-

Diary No of letter replied to *L 1208*

General and Revenue Secretariat

( )  
the 193

Date of issue *17-9-35*

Signed by *Ex A.S.R.*

( to be used) *relinquish*  
*new report*

List of enclosures

Copied by

Examined by

*urgent*

Section and  
File No *26-35*  
Serial No. *12*

No *L 2110*

To *The President, C.R. M.C.*  
*Bangalore*

Sir.

With reference to your letter  
no G. I. 612 dated 12/9/35  
reporting the disability incurred  
by ~~the~~ <sup>the</sup> ~~member~~ <sup>Mr</sup> M. K. Kish  
to continue on the Council  
and ~~B. L. M. and~~ I am  
directed to forward herewith  
~~the~~ <sup>the</sup> ~~report~~ <sup>report</sup> from Mr  
M. K. Kishnadas appealing  
against your order, ~~declaring~~  
~~that his disability from~~  
~~as a member~~ and to request  
you to submit a report in

*p. 7p*

the matter with the Committee needs

also - request you

I am to add that pending

disposal of the paper by Govt,

not to go on with the arrangements

relating to the bye-elections

the matter may be treated as urgent  
I have etc

Yours

17/6

For Chief Secy to Govt

M/S

Urgent.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore.-17th Sept. - 1935

No *L 2110 Enc 1*  
*Encl 26-35-12*

*11*

From

The *Chief Secretary to the Government of His Highness*  
*the Maharaja of Mysore*

To

The President,  
City Municipal Council, Mysore.

Sir,

With reference to your letter No.G.T.612 dated 12th September 1935, reporting the disability incurred by the Municipal Councillor Mr.M.K.Krishna Rao to continue on the Council, I am directed to forward herewith petition (to be kindly returned with report) from Mr.K.Krishna Rao, appealing against your order and to request you to submit a report in the matter with the connected records.

I am also to request you not to go on with the arrangements relating to the bye-election pending disposal of the petition by Government.

The matter may be treated as urgent.

I have the honor to be,

Sir,

Your most obedient servant,

*for*

For Chief Secretary to Government.

*85*

B.K.N.2



OFFICE OF THE PRESIDENT  
CITY MUNICIPAL COUNCIL MYSORE

Dated 30th September 1935.

No. G.T. 788  
819

Mr. S.S.

From

M A SREENIVASAN Esq B.A.  
PRESIDENT CITY MUNICIPAL COUNCIL  
MYSORE

ml 26-35-20

1-7-35

1530

48 Post No 137  
3/10/35

C.S.S.

7/10/35

The Chief Secretary  
to the Government of His Highness the Maharaja of  
Mysore, BANGALORE.

Sir,

With reference to your letter No.L 2110/Ml.26-35-12 dated 17th September 1935 calling for a report with connected records on the appeal preferred by Mr.M.K.Krishna Rao, Inamdhar, against the order passed regarding the disability incurred by him under Section 12(2)(e) of the City Municipalities Regulation 1933, I have the honour to forward the marginally noted records and to state as follows -

1. Letter dated 21-3-1935 from Mr.M K.Krishna Rao to the Revenue Officer.
2. Draft Special Notice No.R T 1070 dated 21-5-1935
3. Letter dated 28-6-1935 from Mr.M.K.Krishna Rao to the Revenue Officer
4. Letter No R.T.36 dated 11-7-1935 from the Revenue Officer to Mr. M.K.Krishna Rao
5. Letter dated 26-7-1935 from Mr. M K.Krishna Rao to the President.
6. Letter No.R.T 165 dated 17-8-1935 to Mr.M.K.Krishna Rao with a statement of accounts.
7. Letter dated 19-8-1935 from Mr.M K. Krishna Rao to the President
8. Letter dated 31-8-1935 from Mr.M.K. Krishna Rao to the President
9. Two letters dated 3-9-1935 from Mr
10. M.K.Krishna Rao to the President.
11. Report dated 5-9-1935 from the Revenue Officer to the President.
12. Letter dated 5-9-1935 from Mr. M.K.Krishna Rao to the President

The report of the Revenue Officer dated 5-9-1935 and the note of the Municipal Advocate dated 9-9-1935, and the further note of the Revenue Officer dated 20-9-35 deal with all the material points raised in Mr.Krishna Rao's letters and in his Petition under reference. These and the records would show Mr.Krishna Rao failed to pay up in full, arrears due from him to the Municipality, within three months of the date of service of the Special Notice viz. on or before the 31st August

( P.T.O. )

13. Note dated 9-2-1935 containing  
the legal opinion of the  
Municipal Advocate.

14. Revenue Officer's report dated  
20-2-1935.

15. Confidential report dated  
23-2-1935 from the Revenue  
Officer regarding the age  
of Mr. L. K. Subba Rao, son  
of Mr. L. K. Prasad Rao.

16. Tarpal Book.

August 1935.

does not specify

kind of dues in

along the disability

but is comprehensively

to apply " to any arrears

kind " -- failure to pay any

portion of which would involve

the disability contemplated thereunder.

The circumstances and the manner in which the Notice was duly  
served is also dealt with in the Municipal Advocate's note and in  
Revenue Officer's report dated 23-2-1935 ( enclosed ).

Action to fill up the vacancy has been stayed pending orders  
Government on the question, as instructed. The petition of the applicant  
is herewith returned.

I have the honour to be,

Sir,

Your most obedient servant,

*[Signature]*  
PROBATIONER.

*[Signature]*

MLT.

D.C. No. L.4

(Camp) Mysore  
~~xxxxxxxx~~ 10th Octr.

Dear Sir,

With reference to the special notices issued by you recently to certain Municipal Councillors in respect of the arrears due by them to the Municipal Council, I am desired to enquire whether these notices were issued in accordance with a resolution of the Municipal Council passed in this behalf or whether you issued them on your own authority and if so, under what provisions of the City Municipalities Regulation.

An immediate reply is requested.

Yours sincerely,



M.A.Srinivasan, Esqr., B.A.,  
President, City Municipal Council, Mysore.

M. A. SREENIVASAN  
PRESIDENT

67-22

CITY MUNICIPAL OFFICE,  
MYSORE

October 12, 1935.

Dear Sir,

In reply to your D.O.No.L.4 of the 10th instant I write to submit that the special notices under Section 12(2)(e) of the Regulation were issued to Councillors in arrears in accordance with an assurance made to the Council ( by the previous President Mr.N.Krishna Iyengar ) in reply to - interpellations in the matter.

There was no resolution of the Council in this behalf, and the notices were issued under the powers vested in the President under Sections 22 and 24 of Regulation.

Yours sincerely,

*M. A. Sreenivasan*

K.V. Anantharaman, Esq., B.A.,  
Chief Secretary to Government of His Highness  
the Maharaja of Mysore,  
(Camp ) Mysore

Lsq

keo

13.10.35

ml 26-35-22

Proceedings of the Government of H. H.  
the Maharaja of Mysore.

— 20

Read:-

Petition dated 14th September 1935 from Mr M. K. Krishna Rao, Mysore, appealing against the order of the President, Mysore City Municipal Council, declaring him to have been disabled from continuing as a Municipal Councillor under Section 12(2)(e) of the Mysore City Municipalities Regulation, 1933, on account of the nonpayment of the arrears of certain taxes alleged to be due by him in accordance with a special notice issued to him in this behalf

2. Correspondence ending with letter No.G.T.786 dated 1st October 1935 from the President, City Municipal Council, Mysore, submitting a report on the petition with the connected records and stating that action to fill up the vacancy has been stayed, as ordered, pending the disposal of the petition by Government.

Order No. 23443

Dated, 12-11-35

The chief grounds on which the appeal has been preferred by Mr. Krishna Rao are the following.-

(1) that the special notice left in his house on 31-5-1935 was not a legal notice as it included Sewage Farm dues and current dues and did not give correct details of the arrears, <sup>(2)</sup> that it was not served on him personally



or tendered to an adult <sup>male</sup> member or servant of his family and was not therefore duly served;

and (3) that even if the notice should be regarded as duly served, he has paid the taxes within the period of 3 months allowed under the law, the 1st and 2nd September 1935 having been holidays, and that he has not therefore incurred the disability.

2. The Municipal President, from whom a report was called for, states that Mr. Krishna Rao failed to pay in full the arrears due by him to the Municipality within 3 months from the date of service of the special notice, i.e., before 31-8-1935 and that Section 12 (2)(e) of the City Municipalities Regulation does not specify any particular kind of dues in respect of which alone the disability would occur <sup>and applies</sup> ~~out to any~~ arrears of any kind <sup>and that</sup> failure to pay any ~~portion of which~~ would involve the disability contemplated.

3. The main question that ~~xx~~ has to be decided is whether the notice was served on Mr. Krishna Rao on 31-5-1935 in accordance with the provisions of the Regulation, or else when it should be deemed to have been served. The notice was not served personally on Mr. Krishna Rao as he was not in town on that date and it was delivered in his house to one V. K. Subba Rao who has signed in the delivery book. According to Section 185 of the City Municipalities Regulation, the service of every notice shall be effected (a) by giving or tendering the notice to the person to whom it is addressed or (b) if such person is not found



*21*

by leaving the notice at his last named place of abode with or by giving or tendering the notice to, some adult male member or servant of his family. Thus the law contemplates that ordinarily service should be made personally on the person concerned and it is only when the person cannot be found after using ~~all~~ reasonable diligence that it can be served on another person or a servant of his family. In the present case there is no evidence to show that such diligence was <sup>exercised</sup> used by the server to ascertain that the person was not available, as the records show that the server went to Mr. Krishna Rao's house on 31-5-1935 and not finding him there, left the notice with M. K. Subba Rao <sup>after</sup> taking his signature in the delivery book. There is also <sup>clear</sup> no evidence produced to show that the latter person is an adult male member of the family, and Mr. Krishna Rao himself ~~has not been~~ questioned on the point. Government, therefore, consider that the circumstances of service ~~on the 30th May 1935~~ <sup>presented</sup> the case do not satisfy the conditions <sup>of the notice</sup> under Section 185 and that the service on 31st May 1935 cannot be said to be proper service

*See a Careful Consideration of the  
Circumstances of this Case*

4. The special notice came into the hands of Mr. Krishna Rao only on 1st June 1935 and he immediately wrote a letter to the Revenue Officer asking for details. The notice may therefore be deemed to have been served on 1st June 1935. ~~Counting three months allowed by the Regulation from this date, the last date for payment of the arrears was 1-9-1935. Since the 1st and 2nd September were General Holidays, Section 10 of the General clauses Regulation permits the payment being done on the next day on which the office was open~~



U

~~and~~ The payment made by Mr. Krishna Rao on  
3-9-1935 has ~~therefore to be~~<sup>is</sup> considered as  
made in due time.

For the foregoing reasons, Government  
hold that Mr. Krishna Rao cannot be treated  
as having incurred the disability mentioned  
in Section 12 (2) (e) of the City Municipalities  
Regulation

The President's order is accordingly  
set aside

*for*  
7/11  
Chief Secy. to Government.  
*Rmr*

To

The President, City Municipal Council,  
Mysore with the records

---

12  
20  
11/11

/ Copy to Mr. Krishna Rao was rege  
his detn 27 4 9 35  
*Rmr*



Appendix F G-1]

SUBJECT

Section Me

File No. 26-35

Serial No., 24

✓ 23532  
No

~~Forwards to be forwarded~~

Diary No of letter replied to .

To

Mr Inamdar M K Krishna Rao

"Manorama"

Vani Vilas Road, Mysore

Sir,

your

- With reference to ~~has~~ petition - dated

14-9-1935 appealing against the order of

the President, City Municipal Council,

Mysore declaring <sup>you</sup> ~~him~~ to have been

disabled from continuing as a Municipal

Councillor under Section 12(2)(c) of the

Mysore City Municipalities Regulation, 1933

(on account of the non payment of the  
arrears of certain taxes alleged to be  
due by him in accordance with

a special notice issued to him in

this behalf.) I am directed to state  
Mr Krishna Rao is

informed that Govt have issued orders

General and Revenue Secretariat

( )

the 193

Date of issue 13-11-35

Signed by Mr A. S. R.

List of enclosures

Copied by

Examined by

the President's order

Shane's  
Physician

*[Signature]*

Approved by chief of staff  
1/11/11

L 3533 D 13-11-35

copy to the President - only Mr. Nease

Council, Mysine

By order

*[Signature]*  
1/11/11  
Approved by chief of staff  
for

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 13th November 1935

No

From

The Chief Secretary to the Government of His Highness the Maharaja of Mysore

To Mr. Inamdar P.K. Krishna Rao,  
"Manorama",  
Vani Vilas Road, Mysore.

Sir,

With reference to your petition dated 14th September 1935 appealing against the order of the President, City Municipal Council, Mysore, declaring you to have been disabled from continuing as a Municipal Councillor under Section 12 (2)(c) of the Mysore City Municipalities Regulation, 1933, I am directed to state that Government have issued orders setting aside the President's order.

I have the honour to be,  
Sir,  
Your most obedient servant,

Sd/- A.V. Ramana than,  
Chief Secretary to Government.

P.T.O.